

HOUSE BILL NO. 510

INTRODUCED BY P. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A PERSON DOES NOT ENTER OR REMAIN UNLAWFULLY UPON LAND IF THE PERSON STEPS ACROSS A CORNER OF LAND UPON WHICH THE PERSON IS NOT LICENSED, INVITED, OR OTHERWISE PRIVILEGED TO ENTER IN ORDER TO STEP ONTO LAND UPON WHICH THE PERSON IS LICENSED, INVITED, OR OTHERWISE PRIVILEGED TO ENTER; PROVIDING THAT PERMISSION TO CROSS THE CORNER IS NOT REQUIRED; AMENDING SECTIONS 45-6-201, 77-1-806, AND 87-3-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-6-201, MCA, is amended to read:

"45-6-201. Definition of "enter or remain unlawfully". (1) ~~A~~ Except as provided in subsection (6), a person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when ~~he~~ the person is not licensed, invited, or otherwise privileged to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. The privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person.

(2) To provide for effective posting of private land through which the public has no right-of-way, the notice provided for in subsection (1) must satisfy the following requirements:

(a) notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

(3) To provide for effective posting of private land through which or along which the public has an unfenced right-of-way by means of a public road, a landowner shall:

(a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters the

1 private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD
2 NEXT ____ MILES"; or

3 (b) place notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the
4 roadway at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced private
5 land, except that orange markings may not be placed on posts where the public roadway enters the private land.

6 (4) If property has been posted in substantial compliance with subsection (2) or (3), it is considered
7 closed to public access unless explicit permission to enter is given by the landowner or ~~his~~ the landowner's
8 authorized agent.

9 (5) The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding
10 hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses or
11 permits, in condensed form, the provisions of this section concerning entry on private land. The department shall
12 use public media, as well as its own publications, in attempting to educate and inform other recreational users
13 of the provisions of this section. In the interests of providing the public with clear information regarding the public
14 nature of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that
15 satisfy the requirements of subsection (3).

16 (6) A person does not enter or remain unlawfully upon land if the person steps across a corner of land
17 upon which the person is not licensed, invited, or otherwise privileged to enter in order to step onto land upon
18 which the person is licensed, invited, or otherwise privileged to enter.

19 ~~(6)(7)~~ For purposes of this section, "land" means land as defined in 70-15-102.

20 ~~(7)(8) In no event may civil~~ Civil liability may not be imposed upon the owner or occupier of premises
21 by reason of any privilege created by this section."

22
23 **Section 2.** Section 77-1-806, MCA, is amended to read:

24 **"77-1-806. Prior notification to lessee of recreational use -- trespass -- penalty.** (1) If a lessee of
25 state lands under this part desires to be notified prior to anyone entering upon ~~his~~ the lessee's leasehold, the
26 lessee shall post, at customary access points, signs provided or authorized by the department. The signs must
27 set forth the lessee's or ~~his~~ the lessee's agent's name, address, telephone number, and method of notification.
28 The lessee or ~~his~~ the lessee's agent ~~shall make himself~~ must be available to receive notice from recreational
29 users or provide an alternative means for notice as prescribed by rule. When state land is posted, recreational
30 users shall contact and identify themselves to the lessee or ~~his~~ the lessee's agent for the purposes of minimizing

1 impact upon the leasehold interest and learning the specific boundaries of adjacent unfenced private property.

2 (2) ~~(a) Each~~ Except as provided in subsection (2)(b), each recreational user of state lands shall obtain
3 permission of the lessee or ~~his~~ the lessee's agent before entering the adjacent private property owned by the
4 lessee. Entry to private property from adjacent state lands without permission of the landowner or ~~his~~ the
5 landowner's agent is an absolute liability offense. A violator of this subsection is guilty of a misdemeanor and
6 shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not more than 6 months, or
7 both.

8 (b) Permission is not required and there is no entry upon the private property and no offense if a person
9 steps across a corner of land upon which the person is not licensed, invited, or otherwise privileged to enter in
10 order to step onto land upon which the person is licensed, invited, or otherwise privileged to enter.

11 (3) A person may be found guilty of the offense described in subsection (2)(a) regardless of the absence
12 of fencing or failure to post a notice in accordance with 45-6-201."
13

14 **Section 3.** Section 87-3-304, MCA, is amended to read:

15 **"87-3-304. Landowner's permission required for hunting -- penalty.** (1) ~~(a) Every resident and~~
16 ~~nonresident~~ Except as provided in subsection (1)(b), a person must have obtained permission of the landowner,
17 the lessee, or their agents before taking or attempting to take nongame wildlife or predatory animals or hunting
18 on private property.

19 (b) Permission to cross a corner of land is not necessary and there is no offense under this section if
20 a person steps across a corner of land upon which the person is not licensed, invited, or otherwise privileged
21 to enter in order to step onto land upon which the person is licensed, invited, or otherwise privileged to enter.

22 (2) Except for hunting big game animals on private property, a person who violates this section shall,
23 upon conviction for a first offense, be fined an amount not to exceed \$25."
24

25 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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